IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

Crl.MC.No. 2961 of 2007()

AGAINST THE ORDER IN LP.11/06 IN
SC.349/2005 of ADDL DISTRICT JUDGE (ADHOC-I), ERNAKULAM

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PETITIONER: ACCUSED NO.3

VINEETH P.GEORGE, S/O.GEORGE VARGHESE,
AGED 32 YEARS, PLAMOOTTIL HOUSE,
PALLILAMKARAYIL, THRIKKAKARA NORTH VILLAGE,
ERNAKULAM DISTRICT.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY PUBLIC
PROSECUTOR, HONOURABLE HIGH COURT OF KERALA AT
ERNAKULAM REPRESENTED BY CIRCLE INSPECTOR OF
POLICE, THRIKKAKARA POLICE STATION IN
CRIME NO.210/2003 OF THRIKKAKARA POLICE STATION.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2961 of 2007

Dated this the 25th day of September 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable inter alia under Section 308 I.P.C. The petitioner was not available for trial. Consequently, the case against him has been transferred to the list of long pending cases. Coercive processes have been issued against the petitioner and the petitioner finds a warrant of arrest issued by the learned Sessions Judge chasing him. Trial was conducted against the co-accused. They have been found not guilty and acquitted.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Sessions Judge and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Sessions Judge on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Sessions Judge to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Sessions Judge and explain to the learned Sessions Judge, the circumstances under which he could not earlier appear before the

learned Sessions Judge. I find absolutely no reason to assume that the learned Sessions Judge would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003 (1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Sessions Judge and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Sessions Judge must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. The learned counsel for the petitioner further submits that there may be a direction for early disposal of the case after the appearance of the petitioner. It is for the petitioner, first to enter appearance. He can, of course, seek expeditious disposal before the learned Sessions Judge. The learned Sessions Judge will certainly consider the petitioner's prayer for expeditious disposal, if any, made.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007